

KROGH & DECKER, LLP

SHAWN M. KROGH, SBN 227116

shawnkrogh@kroghdecker.com

MICHAEL D. CRODDY, SBN 198489

michaelcroddy@kroghdecker.com

ÇAĞIL AREL, SBN 333564

cagilarel@kroghdecker.com

555 Capitol Mall, Suite 700

Sacramento, California 95814

916.498.9000 (p)

916.498.9005 (f)

Attorneys for Defendant,
Infinite Energy Home Services, Inc.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

INFINITY ENERGY, INC., a
California Corporation,
Plaintiff,
v.

INFINITE ENERGY HOME
SERVICES, INC., a California
Corporation,
Defendant.

Case No. 2:21-cv-00438-WBS-KJN
Hon. William B. Shubb

**DECLARATION OF CAGIL AREL
IN SUPPORT OF
MOTION FOR SUMMARY JUDGMENT,
OR IN THE ALTERNATIVE,
MOTION FOR PARTIAL SUMMARY JUDGMENT**

Date: May 30, 2023
Time: 1:30 p.m.
Location: Courtroom 5

///

///

///

///

///

///

///

///

///



I, Cagil Arel, declare as follows:

1. I am an attorney at law duly licensed to practice in this Court and counsel of record for Defendant Infinite Energy Home Services ("Defendant"). I have personal knowledge of the facts stated herein and, if called to testify, could and would competently testify thereto.

2. Attached as Exhibit A is a true and correct copy of Plaintiff's servicemark registration certificate in the United States and Patent Office ("USPTO") records. It was also marked as Exhibit 1 in Plaintiff's First Amended Complaint, ECF No. 7.

3. Attached as Exhibit B is a true and correct copy of the Dictionary Definition of the "Infinity", Merriam-Webster.com Dictionary, Merriam-Webster, accessed on Apr. 10, 2023, <https://www.merriam-webster.com/dictionary/infinity/>.

4. Attached as Exhibit C is a true and correct copy of the Dictionary Definition of the "Infinite", Merriam-Webster.com Dictionary, Merriam-Webster, accessed on Apr. 10, 2023, <https://www.merriam-webster.com/dictionary/infinite/>.

5. Attached as Exhibit D is a true and correct copy of the deposition transcript of the 30(b)(6) Plaintiff on April 21, 2022 (via principal Cameron Kelly). The deposition transcript is submitted pursuant to L.R. 133(j)

6. Attached as Exhibit E is a true and correct copy of the USPTO records. The records list the live trademarks containing the word "Infinity" in exact or in alternate spelling in International Class 037.



1 The list contains 66 entries, which the Court can also identify by searching
2 the USPTO database with <<(infini*[comb] and (037)[ic] not dead)(ALL)>>

3
4 7. Attached as Exhibit F is a true and correct copy of the USPTO
5 records. The records list the live trademarks containing the word
6 "Infinity" in exact or in alternate spelling in connection with Solar
7 services. The list contains 20 entries, which the Court can also identify
8 through searching the USPTO database with <<*infini\$ [comb] and solar [gs]
9 and live[ld]>>

10 8. Attached as Exhibit G is a true and correct copy of the USPTO
11 records. The records list the live trademarks containing the word "Energy"
12 used in connection with Solar services. The list contains 841 entries,
13 which the Court can also identify through searching the USPTO database
14 with <<(energy [comb] and solar [gs] and live[ld])[ALL]>>

15 9. Attached as Exhibit H is a true and correct copy of Defendant
16 Infinite Energy Home Services, Inc.'s Responses to Plaintiff Infinity
17 Energy, Inc.'s Requests for Admissions, Set One.

18
19 10. Attached as Exhibit I is a true and correct copy of Plaintiff
20 Infinity Energy, Inc.'s Responses to Defendant Infinite Energy Home
21 Services, Inc.'s Requests For Admission, Set One.

22 11. Attached as Exhibit J is a true and correct copy of Plaintiff
23 Infinity Energy, Inc.'s Responses to Defendant Infinite Energy Home
24 Services, Inc.'s Interrogatories, Set One.

25
26 12. Attached as Exhibit K is a true and correct copy of Defendant
27 Infinite Energy Home Services, Inc.'s Responses to Plaintiff Infinity
28 Energy, Inc.'s Special Interrogatories, Set One



1 13. Attached as Exhibit L is a true and correct copy of Plaintiff's
2 Expert Report of Expert Dr. Patrick Farrell.

3 14. Attached as Exhibit M is the true and correct copy of Defendant's
4 Rebuttal Expert Report of Expert Rhonda J. Harper. The preceding pages of
5 the Rebuttal Report is Expert Harper's declaration authenticating the
6 Rebuttal Report.

7 15. Attached as Exhibit N is a true and correct copy of a screenshot
8 showing the home page of Plaintiff's webpage with the domain name
9 "https://infinityenergy.com/"
10

11 16. Attached as Exhibit O is a true and correct copy of a screenshot
12 showing the home page of Defendant's webpage with the domain name
13 "https://www.infiniteenergyco.com/" This displays Defendant's tradename.
14

15 17. Attached as Exhibit P is a true and correct copy of the USPTO
16 Office Action dated May 26, 2020, sent to Plaintiff regarding Plaintiff's
17 servicemark.

18 18. Attached as Exhibit Q is a true and correct copy of Plaintiff's
19 materials regarding information about Plaintiff's services, acquired from
20 Plaintiff via Plaintiff's Document Production during discovery.
21

22 19. Attached as Exhibit R is a true and correct copy of Plaintiff's
23 webpage with the domain name https://infinityenergy.com/, showing the
24 agreements consumers can enter into with Plaintiff.

25 20. Attached as Exhibit S is a true and correct copy of the Statement
26 of Information for Defendant Infinite Energy Home Services, Inc, filed
27 with the Secretary of State of California.
28



21. Attached as Exhibit T is a true and correct copy of Plaintiff's materials acquired from Plaintiff via Plaintiff's Document Production during discovery, showing Plaintiff's display of the word "There's never a shortage of solar energy."

22. Attached as Exhibit U is a true and correct copy of the USPTO records, showing the amendments to Plaintiff's servicemark.

23. Attached as Exhibit V is a true and correct copy of Defendant's Facebook page, showing Defendant's tradename as it appears in commerce.

24. Attached as Exhibit W is a true and correct copy of an email correspondence from a third-party, acquired from Plaintiff via Plaintiff's Document Production during discovery.

25. Attached as Exhibit X is a true and correct copy of Plaintiff's webpage with the domain name <https://infinityenergy.com/>, stating that Plaintiff's services for installation of panels take an average time of 6-8 weeks.

I declare under penalty of perjury that the foregoing is true and correct.

DATED: APRIL 24, 2023

KROGH & DECKER, LLP

By: /cagil arel/

CAGIL AREL

Attorney for Defendant
Infinite Energy Home Services, Inc.

